

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**JAMES M. CRAWFORD**

Claimant

VS.

**OTR EXPRESS, INC.**

Respondent

Self-Insured

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Docket No. 222,999

**ORDER**

Respondent appeals from the preliminary hearing Order of Administrative Law Judge Julie A. N. Sample of December 11, 1997, wherein the Administrative Law Judge granted claimant benefits in the form of medical treatment through Dr. Robert A. Morantz or his referrals.

**ISSUES**

- (1) Whether claimant suffered accidental injury arising out of and in the course of his employment on September 23, 1996, as opposed to a condition resulting from the natural aging process pursuant to K.S.A. 44-508(e).
- (2) Did the Administrative Law Judge exceed her jurisdiction in awarding medical care if claimant failed to prove accidental injury arising out of and in the course of his employment on the date alleged?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the evidence presented and for the purpose of preliminary hearing, the Appeals Board finds as follows:

The Appeals Board finds that the Order of Administrative Law Judge Julie A. N. Sample should be affirmed and claimant should be awarded medical treatment for the

preexisting condition in his cervical spine which was aggravated by his work with respondent on September 23, 1996.

Respondent contends claimant has failed to prove an aggravation of claimant's preexisting condition and the ongoing complaints of claimant are related only to his preexisting osteophyte formations, osteoarthritis, and degenerative spondylosis. Respondent argues the opinion of Dr. Robert A. Morantz is inaccurate as claimant did not aggravate his preexisting condition and claimant's work with respondent did not cause the disc problems diagnosed by Dr. Morantz. Dr. Morantz in his letter of August 22, 1997, was firm in stating that claimant's September 1996 accident aggravated his preexisting condition and that claimant's need for medical treatment was caused by the work-related accident. However, the Appeals Board notes that even if one ignores the report of Dr. Morantz, the report of Dr. David J. Clymer dated February 21, 1997, states that while claimant had a long-standing and gradually progressive degenerative condition in his neck it was certainly possible that his work-related fall may have aggravated this process. In addition, Dr. Timothy E. Stepp in his report of March 7, 1997, diagnosed persistent neck pain with intermittent upper extremity symptoms following the work-related accident of September 23, 1996. Dr. Stepp opined that this preexisting condition may very well have been aggravated by the fall suffered by claimant on the date of accident. The Appeals Board finds the opinions of Dr. Clymer and Dr. Stepp are consistent with the opinion expressed by Dr. Morantz.

The Appeals Board finds, for preliminary hearing purposes, that claimant has established by a preponderance of the credible medical evidence that his accident of September 23, 1996, did aggravate a preexisting degenerative condition in his neck and the ongoing need for treatment results from that accident.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Julie A. N. Sample dated December 11, 1997, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of February 1998.

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BOARD MEMBER

c: Steven C. Effertz, Independence, MO  
D'Ambra M. Howard, Overland Park, KS  
Julie A. N. Sample, Administrative Law Judge  
Philip S. Harness, Director